



Office of the Attorney General
State of Texas

December 9, 1997

DAN MORALES
ATTORNEY GENERAL

Mr. Norbert J. Hart
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR97-2676

Dear Mr. Hart:

You ask whether certain information relating to motor vehicle accidents must be withheld. Your request for a decision was assigned ID# 110616.

The Municipal Court of the City of Corpus Christi received a request for

all traffic citations meeting the following criteria:

(a) Diskette comprised of information derived from traffic citations wherein it is noted on the traffic citation that an automobile accident was involved;

(b) Diskette comprised of information from traffic citations issued to motorists from August 29 to/including September 4, 1997.

Because the requested records contain information relating to the dates of motor vehicle accidents, the names of persons involved in motor vehicle accidents, and the specific locations of motor vehicle accidents, you ask whether amended section 550.065 of the Transportation Code, which was passed in the last legislative session, makes any of the requested information confidential by law.

Initially, we recognize that the Open Records Act does not apply to records of the judiciary. Gov't Code § 552.003(B); *see, e.g.*, Open Records Decision Nos. 274 (1981), 25 (1974). The Open Records Act neither authorizes information held by the judiciary to be withheld nor requires it to be disclosed. Open Records Decision No. 25 (1974). As records of the judiciary, however, the information may be public by other sources of law. Attorney General Opinions DM-166 (1992) at 2-3 (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 25 (1974); *see Star Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally

considered public and must be released). Additionally, the records may be subject to disclosure under statutory law governing municipal courts. *See* Gov't Code § 29.007(d)(4) (complaints filed with municipal court clerk); *id.* § 29.007(f) (municipal court clerks shall perform duties prescribed by law for county court clerk); Local Gov't Code § 191.006 (records belonging to office of county clerk shall be open to public unless access restricted by law or court order).

We now turn to your question concerning amended section 550.065 of the Transportation Code. The Seventy-fifth Legislature, repealed V.T.C.S. article 6701d, and amended section 550.065 of the Transportation Code concerning the disclosure of accident report information. Act of May 29, 1997, 75th Leg., R.S. ch. 1187, 1997 Tex. Sess. Law Serv. 4575 (Vernon), (to be codified at Transp. Code §550.065). However, a Travis County district court has issued a temporary injunction enjoining the enforcement of the amendment to section 550.065 of the Transportation Code. *Texas Daily Newspaper Ass'n, et al., v. Morales, et al.*, No. 97-08930 (345th Dist. Ct., Travis County, Tex., Oct. 24, 1997) (second amended agreed temporary injunction). A temporary injunction preserves the status quo until the final hearing of a case on its merits. *Janus Films, Inc. v. City of Fort Worth et al.* 163 Tex. 616, 617 358 S.W.2d 589 (1962). The Supreme Court has defined the status quo as "the last, actual peaceable, non-contested status that preceded the pending controversy." *Texas v. Southwestern Bell Telephone Co.* 526 S.W.2d 526, 528 (Tex. 1975). The status quo of accident report information prior to the enactment of SB 1069 is governed by section 47 of article 6701d, V.T.C.S.¹

Section 47(b)(1) provides that:

The Department or a law enforcement agency employing a peace officer who made an accident report *is required to release a copy of the report* on request to:

.....

(D) a person who provides the Department or the law enforcement agency with two or more of the following:

¹Although the Seventy-fourth Legislature repealed and codified article 6701d as part of the Transportation Code, the legislature did not intend a substantive change of the law but merely a recodification of existing law. Act of May 1, 1995, 74th Leg., R.S., ch. 165, §§ 24, 25 1995 Tex. Sess. Law Serv. 1025, 1870-71. Furthermore, the Seventy-fourth Legislature, without reference to the repeal and codification of V.T.C.S. article 6701d, amended section 47 of article 6701d, V.T.C.S., relating to the disclosure of accident reports. Act of May 27, 1995, 74th Leg., R.S., ch. 894, §1, 1995 Tex. Sess. Law Serv. 4413, 4414. Because the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code, the amendment is preserved and given effect as part of the code provision. Gov't Code § 311.031(c). Thus, the amendment of section 47 of article 6701d, V.T.C.S. is the existing law regarding the availability of accident report information, and may be found following section 550.065 of the Transportation Code. *See also* Act of May 27, 1995, 74th Leg., R.S., ch. 894, §1, 1995 Tex. Sess. Law Serv. 4413, 4414.

- (i) the date of the accident;
- (ii) the name of any person involved in the accident; or
- (iii) the specific location of the accident.

V.T.C.S. art. 6701d, § 47(b)(1) (emphasis added). Under this provision, a law enforcement agency “is required to release” a copy of an accident report to a person who provides the law enforcement agency with two or more pieces of information specified by the statute. *Id.* This act, however, applies only to “accident reports” required by article 6701d, Vernon’s Texas Civil Statutes, or article 6701h, Vernon’s Civil Statutes. As the requested information at issue in this request does not fall within the definition of “accident reports” under article 6701d or article 6701h, the current law in effect does not apply to the requested citations.

You also question whether the city is bound by the second amended agreed temporary injunction which enjoins enforcement of section 550.065 of the Transportation Code, section 13 of S.B. 1069. The injunction provides that

The Defendants, in their individual capacities and class representative, and all members of the class of all governmental officials in the State of Texas who have custody over records that are subject to the 1997 legislative session’s S.B. 1069 or who have authority to enforce any criminal provision established by S.B. 1069, their attorneys and agents, as well as those persons who have actual knowledge of this order by service or otherwise, or who are in active concert or participation with any of them, individually or collectively, are hereby ENJOINED as follows:

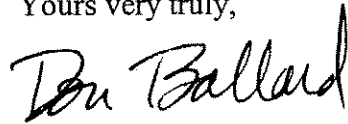
1. ENJOINED from enforcing Section 13 of S.B. 1069;
2. ENJOINED from enforcing Section 12 of S.B. 1069;
3. ENJOINED from enforcing or applying S.B. 1069 (also known as the Texas Motor Vehicle Records Disclosure Act) to motor vehicle accident reports, dispatch logs, towing records, 911 records or any other record that includes information subject to the restrictions contained in Section 13 of S.B. 1069.

Second Amended Agreed Temporary Injunction, *Texas Daily Newspaper Ass’n, et al., v. Morales, et al.*, No. 97-08930 (345th Dist. Ct., Travis County, Tex., Oct. 24, 1997); *see* Notice of Pendency of Class, *Texas Daily Newspaper Ass’n, et al., v. Morales, et al.*, No. 97-08930 (345th Dist. Ct., Travis County, Tex., Oct. 24, 1997) (class certification applies to all governmental officials who have custody or control over records covered by S.B. 1069, including records with information related to vehicular accidents); Order Certifying Lawsuit

as Class Action, *Texas Daily Newspaper Ass'n, et al., v. Morales, et al.*, No. 97-08930 (345th Dist. Ct., Travis County, Tex., Oct. 24, 1997); *see also* Tex. R. Civ. P. 42(c)(2). All governmental officials in the state who have custody over records that are subject to S.B. 1069 or who have authority to enforce any criminal provision established by S.B. 1069 are subject to the injunction.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 110616

Enclosures: Submitted documents

cc: Mr. James Donato
Director, Health Information Association
11956 Bernardo Plaza Drive, Suite 534
San Diego, California 92128
(w/o enclosures)

²Because sections 12 and 13 of Senate Bill 1069 have been enjoined, we need not address your contention that any common-law rights of access to court records have been superseded by the statute.